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Docket No.: 2557-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

John NOTO et al.

Appln. No.: 09/775,970

Group Art Unit: 2633

Filed: Feb. 2, 2001

Examiner: H. Ngo

Title: OPTICAL MULTIPLEXER AND
CROSS-SWITCH USING ETCHED
LIQUID CRYSTAL FABRY-PEROT
ETALONS

TRANSMITTAL LETTER

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed please find the following:

1. Request for Reconsideration of Patent Term Adjustment
Indicated in the Notice of Allowance;
2. Copy of Decision on Petition dated June 3, 2004; and
3. Check for \$200.00.

The Director of the U.S. Patent & Trademark Office is hereby
authorized to charge any fee deficiency, or credit any
overpayment, to Deposit Account No. 18-1579.

Respectfully submitted,
ROBERTS ABOKHAIR & MARDULA, LLC

Kevin L. PONTIUS
Reg. No. 37512
(505) 922-1400



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John NOTO et al.

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**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT INDICATED
IN THE NOTICE OF ALLOWANCE UNDER
35 U.S.C. § 154(b)(3)(B)(ii) AND
37 C.F.R. § 1.705(b)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully seeks a term adjustment for the above-identified patent application.

A. Timeliness of This Paper

This Application for Patent Term Adjustment is being filed after the mailing date (Jan. 26, 2005) of the Notice of Allowance and prior to payment of the issue fee.

B. Required Fee

A check for the required fee of \$200.00 is enclosed herewith. 37 C.F.R. § 1.18(e). The Director of the U.S. Patent

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Date: April 6, 2005

RA&M Ref.: 2557-001

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
INDICATED IN THE NOTICE OF ALLOWANCE UNDER 35 U.S.C.
S 154(b) (3) (B) (ii) AND 37 C.F.R. S 1.705(b)
Appln. No. 09/775,970**

& Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to Deposit Account No. 18-1579.

C. Statement of Facts

The correct patent term adjustment is 922 days plus the period from the filing of this request until the date of issue. 37 C.F.R. S 1.705(b) (2) (i).

The bases for this adjustment are a failure to take certain actions within specified time frames, and a failure to issue a patent within three years of the actual filing date of the application. 37 C.F.R. §§ 1.702(a)-(b), 1.705(b) (2) (i).

The relevant dates for which adjustment is sought are:

- This nonprovisional application was filed on Feb. 2, 2001.
- The first Office Action (a restriction requirement only) was mailed on Feb. 6 2003.
- Reply to the first Office Action was filed Apr. 1, 2003.
- The second Office Action was mailed on Aug. 30, 2004.
- Reply to the second Office Action was filed on Nov. 30, 2004.

The period from the day after the date that is fourteen months after the application filing date (i.e., Apr. 3, 2002) and ending on the date of mailing of the first Office Action (i.e., Feb. 6, 2003) numbers 310 days. 37 C.F.R. S 1.703(a)(1). The

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Appln. No. 09/775,970**

period from the day after the date that is four months after the date the reply to the first Office Action was filed (i.e., Apr. 1, 2003) and ending on the date of mailing of the second Office Action (i.e., Aug. 30, 2004) numbers 394 days. 37 C.F.R. § 1.703(a)(2). Accordingly, the period of adjustment under 37 C.F.R. § 1.703(a) is 704 days, the sum of 310 days and 394 days.

The period from the day after the date that is three years after the application filing date (i.e., Feb. 3, 2004) and ending on the date of issuance of the patent (not yet occurred) numbers 428 days as of the date of this request, and continues to accrue.

Accordingly, the period of adjustment under 37 C.F.R. § 1.703(b) is 428 days.

In determining the adjustment to which the patent is entitled, it is noted that the period under 37 C.F.R. § 1.703(a) overlaps the period under 37 C.F.R. § 1.703(b) from Feb. 3, 2004 through Aug. 30, 2004, thus constituting an overlap of 210 days.

Thus, the adjustment to which the patent is entitled is no less than 922 days, and continues to accrue from the date of filing of this request until the date of issue. 37 C.F.R. § 1.703(f).

Concerning terminal disclaimer, this application is not subject to a terminal disclaimer. 37 C.F.R. § 1.705(b)(2)(iii).

Concerning delay by the applicant, there are no

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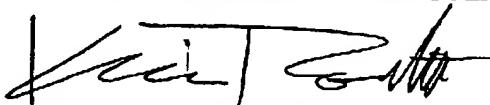
circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application.

37 C.F.R. §§ 1.704, 1.705(b)(2)(iv)(B). Although a Notice of Abandonment was mailed in this application, that Notice was in error and no abandonment occurred. This was decided per the Decision on Petition mailed June 3, 2004 vacating the Notice of Abandonment and withdrawing the holding of abandonment. A copy of the Decision on Petition is filed herewith for the reader's ease of reference.

D. Prayer for Relief

For the above reasons, applicant respectfully asks that a term adjustment of 922 days, plus the period from the filing of this request until the date of issue, be granted for the above-identified patent application.

Respectfully submitted,
ROBERTS ABOKHAIR & MARDULA, LLC



Kevin L. PONTIUS
Reg. No. 37512
1-505-922-1400 or 1-703-391-2900

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